

### **REMARKS**

This responds to the Office Action mailed on March 9, 2007.

Claims 25, 35, 45, 47, 49, and 58-61 are amended, no claims are canceled or added; as a result, claims 25, 27-35, 37-45, 47, 49, and 52-61 are now pending in this application.

#### **§112 Rejection of the Claims**

Claims 25, 27-35, 37-45, 47, 49 and 52-61 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness.

##### **1. Concerning claims 25, 35, 45, and 49**

The Office Action rejected claims 25, 35, 45, and 49 as being indefinite with respect to Applicant's description of tiers and nodes in these claims. Applicant has amended claims 25, 35, 45, and 49 to further clarify the claimed subject matter, in particular, with regards to the product data hierarchy and the customer data hierarchy. Applicant respectfully submits that these amendments overcome the § 112 rejection and respectfully requests the withdrawal of the basis of these rejections.

The Office Action rejected claims 25, 35, 45, and 49 as being indefinite with respect to the "allowing" clause of these claims. Applicant has amended claims 25, 35, 45, and 49 to further clarify the claimed subject matter. While Applicant does not admit that the "allowing" clause is indefinite, Applicant has removed the "allowing" clause and replaced it with a "presenting" clause, which Applicant believes overcomes this rejection. Thus, Applicant respectfully submits that these amendments overcome the § 112 rejection and requests the withdrawal of the basis of these rejections.

The Office Action rejected claim 45's use of "configured to" as being an indication of an intended use and thus unclear as to its operation. Applicant respectfully traverses this rejection. Applicant respectfully submits that the Office Action may be mistaking claim breadth for indefiniteness. As stated in the MPEP § 2111.04, "[c]laim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure." In this case, Applicant has provided an indication of a particular structure, by using the phrase "configured to," and submits that this

inherent structural limitation provides sufficient definiteness. As such, Applicant respectfully requests withdrawal of the basis of this rejection.

2. Claims 58 and 59

The Office Action rejected claims 58 and 59 as being indefinite for the use of the phrase “zero or more.” While Applicant believes that a tier comprising zero or more nodes is still logically a tier, Applicant has amended these claims to recite “one or more” to overcome this instant rejection. Thus, Applicant respectfully requests withdrawal of this basis of this rejection.

3. Claim 60

The Office Action rejected claim 60 as being indefinite because “the fact that each tier includes a respective level has no effect on the claimed invention as a whole.” Office Action at p. 6, lines 6-8. Applicant has amended claim 60 to recite further configuration of the processor of claim 45, from which claim 60 depends. The further configuration of the processor uses the product and customer hierarchies to control access to forecast data for a particular user. Thus, Applicant respectfully requests withdrawal of this basis of this rejection.

4. Claim 61

The Office Action rejected claim 61 as being indefinite because of a lack of a relationship between the “identifying” step and the data hierarchy. Applicant has amended claim 61 to overcome this rejection. Thus, Applicant respectfully requests withdrawal of this basis of this rejection.

§101 Rejection of the Claims

Claims 25, 27-35, 37-45, 47, 49 and 52-61 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended claims 25, 35, 47, 49, and 61 to overcome these rejections. Thus, Applicant respectfully requests withdrawal of this basis of these rejections.

§103 Rejection of the Claims

Claims 25, 27-35, 37-45, 47, 49, and 52-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sultan (U.S.6,804,657) in view of Mentzer et al. (Mentzer et al.,

Benchmarking Sales Forecasting Management, Business Horizons, May-June 1999, p. 48-56 [GOOGLE]].

1. Concerning claims 25, 27-35, 37-44, 58, and 59

Applicant respectfully traverses this rejection. As discussed in the previous Response of February 12, 2007, Applicant submits that no *prima facie* case of obviousness presently exists with respect to these claims because the cited portions of Sultan and/or Mentzer do not disclose, teach, or suggest all of the claimed elements in the independent claim 25 as presently recited, and similarly recited in independent claim 35.

In summary, Applicant maintains that Sultan does not appear to disclose a method to determine which customers are accessible to which users given a particular product(s) associated with a user. In fact, Sultan does not appear to disclose, in any fashion, how to determine which customers are accessible to which users using Sultan's organizational hierarchy.

Additionally, Applicant maintains that that neither Sultan nor Mentzer disclose, describe or teach a product data hierarchy. As discussed in the Response of February 12, 2007, a hierarchy is conventionally understood to include a collection organized into ranks, grades, or orders. The current Office Action provides additional definitions of a hierarchy (Office Action at p. 2, § 2, Response to Arguments), with which Applicant does not dispute. However, Applicant was merely providing a framework to provide a clear distinction from Sultan's apparently unorganized products. Mere description of multiple types of products does not qualify as a "product data hierarchy," as claimed. The current Office Action asserts that Sultan discloses "forecasts for products in a family of products (e.g., Widgets1 and Widgets 2 in a widget family)." Office Action at p. 13, line 22 – p. 14, line 1. However, Applicant has reviewed the cited portions of Sultan and cannot find a "widget family" or any suggestion or teaching that Widgets1 and Widgets2 are anything more than arbitrary names given to exemplary products for illustration in Sultan's description. As such, Applicant maintains that Sultan fails to disclose, teach, or suggest a product data hierarchy and respectfully requests withdrawal of this basis of rejection of these claims.

Finally, Applicant respectfully submits that no *prima facie* case of obviousness exists with respect to these claims because the cited portions of Sultan and/or Mentzer do not disclose,

teach, or suggest "presenting forecast data for the set of one or more customers for each product from the set of one or more products to the particular user" as presently recited in claim 25, and similarly recited in claim 35.

Therefore, because Applicant cannot find all elements of claims 25 or 35 in the cited portions these references, Applicant respectfully submits that no *prima facie* case of obviousness presently exists with respect to these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

Claims 27-34, 37-44, and 58-59 depend from independent claims 25 or 35, either directly or indirectly, and incorporate all of the limitations therein. Claims 27-34, 37-44, and 58-59 are also asserted to be allowable for the reasons presented above, and Applicant respectfully requests notification of same. Applicant considers additional elements of claims 27-34, 37-44, and 58-59 to further distinguish over the cited references, and Applicant reserves the right to present arguments to this effect at a later date.

2. Concerning claims 45, 47, and 60

Applicant respectfully traverses this rejection. Applicant submits that no *prima facie* case of obviousness presently exists with respect to these claims because the cited portions of Sultan and/or Mentzer do not disclose, teach, or suggest all of the claimed elements in the independent claim 45 as presently recited. In particular, and as discussed above, Applicant cannot find any disclosure, teaching, or suggestion of:

a storage device containing customer hierarchy data and product hierarchy data, wherein the customer hierarchy data includes a first customer tier and a second customer tier, and further wherein the product hierarchy data includes a first product tier and a second product tier, wherein the first product tier includes one or more nodes and wherein the second product tier includes one or more nodes, wherein each node in the second product tier is associated with at least one node in the first product tier

as currently recited in claim 45. As such, because Applicant cannot find all elements of claim 45 in the cited portions these references, Applicant respectfully submits that no *prima facie* case of obviousness presently exists with respect to this claim. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

Claims 47 and 60 depend from independent claim 45, and incorporate all of the limitations therein. Thus, claims 47 and 60 are also asserted to be allowable for the reasons presented above, and Applicant respectfully requests notification of same.

3. Concerning claims 49 and 52-57

Applicant respectfully traverses this rejection. Applicant submits that no *prima facie* case of obviousness presently exists with respect to these claims because the cited portions of Sultan and/or Mentzer do not disclose, teach, or suggest all of the claimed elements in the independent claim 45 as presently recited. Because claim 49 was grouped with the rejection of claims 25, 35, and 45 in the Office Action (p. 11, lines 3-4), Applicant respectfully submits that this rejection has been overcome in the discussion above. As such, because Applicant cannot find all elements of claim 45 in the cited portions these references, Applicant respectfully submits that no *prima facie* case of obviousness presently exists with respect to this claim. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

Claims 47 and 60 depend from independent claim 45, and incorporate all of the limitations therein. Thus, claims 47 and 60 are also asserted to be allowable for the reasons presented above, and Applicant respectfully requests notification of same.

4. Concerning claim 61

Applicant respectfully traverses this rejection. In particular, Applicant cannot find in the cited portions of Sultan and/or Mentzer:

identifying, from a plurality of products arranged as nodes in a product data hierarchy, one or more products associated with a particular user, wherein the product data hierarchy includes a product family tier and a product line tier, wherein each node in the product line tier is associated with one or more nodes in the product family tier, and wherein identifying includes selecting one or more product nodes using a product family associated with the user or a product line associated with the user, wherein the product family is selected from the product family tier and the product line is selected from the product line tier

as currently recited in claim 61. As discussed above, Applicant maintains that Sultan does not describe, teach, or suggest a "product data hierarchy" as currently claimed. In particular, Sultan does not disclose a "product family" or a "product line" as currently claimed.

Therefore, because Applicant cannot find all elements of claim 61 in the cited portions these references, Applicant respectfully submits that no *prima facie* case of obviousness presently exists with respect to this claim. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of this claim.

### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By /

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 11<sup>th</sup> day of June 2007.

KIMBERLY BROWN

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Name

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Signature